

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

MAR 16 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2009-0074
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
GENARO LOPEZ MADUENA,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CR-200801452

Honorable Bradley M. Soos, Judge

AFFIRMED

Brown & Little, P.L.C.
By Matthew O. Brown

Chandler
Attorneys for Appellant

H O W A R D, Chief Judge.

¶1 A jury found appellant Genaro Maduena guilty of the following four out of seven drug offenses that had been alleged in the indictment filed against him: count two, sale of dangerous drugs; count three, selling, transferring, or offering to sell or transfer marijuana; count five, sale of dangerous drugs; and count six, selling, transferring, or offering to sell or transfer marijuana. It found Maduena not guilty on counts four and

seven and was unable to reach a verdict on count one. As an aggravating circumstance for all counts, the state had alleged the presence of a minor during a drug offense. The jury found the existence of this circumstance as to counts two and three but could not decide as to counts five and six. The trial court sentenced Maduena to concurrent, aggravated prison terms of fifteen and seven years on counts two and three respectively, and presumptive terms of ten and 3.5 years on counts five and six, to be served concurrently with each other but consecutively to the terms on counts two and three. Counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing he “has found no arguable issue of law that is not frivolous,” and has requested that this court review the record for reversible error. Maduena has not filed a supplemental brief.

¶2 Viewing the evidence and all reasonable inferences arising from that evidence in the light most favorable to sustaining the verdicts, *see State v. Moore*, 222 Ariz. 1, n.1, 213 P.3d 150, 154 n.1, *cert. denied*, ___ U.S. ___, 130 S. Ct. 747 (2009), ample evidence supported Maduena’s convictions. An undercover police officer testified to the following facts: she had telephoned Maduena on April 23, May 1 and May 14, 2008; on each occasion she had arranged to buy methamphetamine and marijuana from him; the two had met on those days as they had agreed; and the officer purchased the drugs from Maduena. A little boy was present in Maduena’s car when he arrived for the meeting on May 1. The officer also testified she had seen an adult female and a female child get in Maduena’s vehicle after she purchased the drugs. After Maduena was arrested, he told an officer he sold drugs in order to supplement his income.

¶3 Having reviewed the record before us, we have found no reversible error relating to the convictions or the sentences, which were imposed in a lawful manner and within the statutory parameters. *See* A.R.S. §§ 13-702(D); 13-709.03(A).¹ Therefore, we affirm.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Philip G. Espinosa

PHILIP G. ESPINOSA, Presiding Judge

/s/ Virginia C. Kelly

VIRGINIA C. KELLY, Judge

¹The Arizona criminal sentencing code has been renumbered, effective “from and after December 31, 2008.” *See* 2008 Ariz. Sess. Laws, ch. 301, §§ 1-120. For ease of reference and because the renumbering included no substantive changes that are relevant to this case, *see id.* § 119, we refer in this decision to the current section numbers, rather than those in effect at the time Maduena committed these offenses.